

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

February 19, 2010

Charles R. Fulbruge III  
Clerk

\_\_\_\_\_  
No. 09-60443

Summary Calendar  
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HERMAN DOUGLAS CARTER, JR.,

Petitioner-Appellant

v.

UNITED STATES OF AMERICA,

Respondent-Appellee

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 5:09-CV-40  
\_\_\_\_\_

Before GARZA, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:\*

Herman Douglas Carter, Jr., federal prisoner # 83346-020, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition, in which he challenged his conviction for aggravated sexual assault and kidnaping and resulting 327-month sentence. The district court determined that Carter could not proceed under § 2241 because his claims did not satisfy the requirements of the "savings clause" of 28 U.S.C. § 2255(e). Carter's brief is entirely devoted to the merits of his claims for relief. Carter has not argued, much less shown, that he is entitled

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

to proceed under § 2241 based on the savings clause of § 2255(e). *See Reyes-Requena v. United States*, 243 F.3d 893, 900-01, 904 (5th Cir. 2001). Carter has waived the issue by failing to brief it. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). The judgment of the district court is AFFIRMED. Carter's "motion requesting a bond hearing be set," "motion for emergency hearing for writ of habeas corpus," and motion to remand incorporated therein are DENIED. *See Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974).